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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,653	06/24/2003	Shuichi Ohtsuka	3562-0130P	1293
2292	7590	11/28/2007		
BIRCH STEWART KOLASCH & BIRCH			EXAMINER	
PO BOX 747				BAYAT, ALI
FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
			2624	
			NOTIFICATION DATE	DELIVERY MODE
			11/28/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,653	OHTSUKA, SHUICHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ali Bayat	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-12, 14, 16-18, 20 and 23-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3,5-10, 12, 14, 16-18, 20, 23 and 24 is/are rejected.
- 7) Claim(s) 4 and 11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 June 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/17/04, 9/19/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**Continued Examination under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/09/07 has been entered.

*Response to Amendment*

2. Applicant's arguments, see page 8 of remarks, filed 11/09/07, with respect to the rejection(s) of claim(s) 12,14,16 under 35 USC 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kotani and Seaman.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 7-10, 12, 14 and 16-18, 20 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotani (Pub.No: US 2002/0078038) in view of Seaman et al. (Pub.No: US 2003/0081145).

In regard to claim 12, Kotani provides for appending information generating means for generating appending information (Fig.4, Para. 30 see meta-data attached to the still image data, corresponds to appending information) based on contents of an image data when the image data is received (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location , Event and Keywords ) from outside of the image processing apparatus; a data storage unit for storing another image data including the appending information ( Para.42, note database,) correlativity judgment means for judging a correlativity between the image data and another image data from which the appending information is generated based on the appending information ( Para 33, lines 8-11, note when "the search conditions (meta-data or appending data) are specified, the thumbnails corresponding to the n images selected form the still image data matching the search conditions are displayed" which corresponds to correlativity judgment means ; and maintenance judgment means for judging whether the received image data is to be maintained in the storage unit based on the correlativity ( Fig.3 element 306, Para.34, note display portion 306, displays the image selected from the thumbnail images displayed in the list display portion 305, which corresponds to maintaining the image data). Kotani does not provide for the image data received from outside of the image processing apparatus. Seaman provide for the image data received from outside of the image processing apparatus (Fig.5 element 504,

Paragraphs 43-44 which corresponds to image receive for outside). It would have been obvious to a person of an ordinary skill in the art at time the invention was made to incorporate the teaching of Seaman with the system and method of Kotani for generating digital images having image meta-data combined with image data, for overcoming the deficiency of prior arts such as searching for an identifying specific digital image based on the content of the image is problematic, see Para.3 of Seaman.

As to claim 3, Kotani provides for a communication unit for communicating with another image processing apparatuses, wherein when it is judged that the image data is not to be maintained, said maintenance judgment means causes said communication unit to transfer the image data to another image processing apparatuses. (Para.27, see the last 4 lines, note "a USB terminal for connecting a digital camera to the image search apparatus or a network connecting terminal for connecting the apparatus to a network, examiner interpret that after image selected (Fig.3 element 306 Para.34) from the thumbnail images displayed (Fig.3 element 305 Para.34) image can be transfer to another image apparatus such as digital camera).

In regard to claim 5, Kotani provides for appending information attaching means for attaching the appending information to the image data (Fig.5 see meta-data (attributes and data values), Para.28 lines 1-4).

With regard to claim 7, Kotani provides for appending information generating means generates information indicating contents of the image data as the appending information by analyzing the image. (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords).

As to claim 8, Kotani provides for appending information generating means generates processing conditions (Para.31 lines 5-6, note search condition concerning the meta-data corresponds to processing conditions) for processing the image data as the appending information by analyzing the image (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords)).

In regard to claim 9, Kotani provides for selection means for selecting the other image data, which is to be used for judgment of the correlativity, using at least a part of the appending information (Fig.6 element 606, Para.38 lines 10-14).

With regard to claim 10, Kotani provides for selection means repeats to select the plurality of other image data until a predetermined number of the other image data are selected (Fig.4, Para.30, note five attributes of the meta-data such as (Photographer, Date, Location, Event and Keywords), which corresponds to the predetermined other image data).

As to claim 14, see the rejection of claim 12. It recites similar limitations as claim 12. Except that claim 14 is a method and claim 12 is an apparatus. Hence it is similarly analyzed and rejected.

In regard to claim 16, see the rejection of claim 12. It recites similar limitations as claim 12. Except for a computer readable medium storing thereon a program (Para. 25 line 1-5). Hence it is similarly analyzed and rejected.

With regard to claim 17, Kotani provides for selection means repeats to select a plurality of the other image data until a predetermined number of the other image data are selected ( Fig.3 , see portion 305, Para.33, note the maximum number of

thumbnails to be displayed in the list display portion 305 at one time is 25) said maintenance judgment means judges that the received image data is not to be maintained if only the other image data, of which the correlativity with the received image data is lower than a predetermined reference value, is received ( Para 33, lines 8-11, note when "the search conditions (meta-data or appending data) are specified, the thumbnails corresponding to the n images selected from the still image data matching the search conditions are displayed" which corresponds to correlativity judgment means).

As to claim 18, see the rejection of claim 12. It recites similar limitations as claim 12. Hence it is similarly analyzed and rejected.

With regard to claim 20, see the rejection of claim 12. It recites similar limitation as claim 20. Hence it is similarly analyzed and rejected.

In regard to claims 23-24, Kotani does not provide for communicating with other image processing apparatuses to transfer the image data to the other image processing apparatuses when it is judged that the image data is not to be maintained. Seaman provide for limitation above (Fig.2 element 209, Para.27) .It would have been obvious to a person of an ordinary skill in the art at time the invention was made to incorporate the teaching of Seaman with the system and method of Kotani for generating digital images having image meta-data combined with image data, for overcoming the deficiency of prior arts such as searching for an identifying specific digital image based on the content of the image is problematic, see Para.3 of Seaman.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kotani (Pub. No.: US 2002/0078038 A1), in view of Seaman et al. (Pub.No: US 2003/0081145) further in view of Shaffer et al. (Us 6,389,181).

In regard to claim 6, Kotani as modified by Seaman does not provide for composite means for composing the image data with the other image data based on the correlativity information. Shaffer provides for composing the image data with the other image data based on the correlativity information (col.5 lines 50-55, note "customer requests a birthday photo-collage the system will retrieve the default processing goals which indicate that the steps of collecting, sorting, culling, annotating, and composing will be involved in the processing to the requested product", also see Fig.3 element 72). One in the art would have been motivated to modify Kotani as modified by Seaman according to Shaffer to "employing means responsive to the sorting step to compose a photo-collage from the digital records. The system then associates each of the images with at least one of the categories followed by a sorting step that arranges the images according to the categories col.2 lines 44-51, this would improve image recognition techniques for generating photo-collages automatically, see the field of the invention "and therefore it would have obvious to one of the ordinary skill in the art to modify Kotani as modified by Luo according to Shaffer.

#### **Objected Claims**

5. Claims 4 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 571-272-7444. The examiner can normally be reached on M-F 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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